



AZB & PARTNERS
ADVOCATES & SOLICITORS

Compliance & Investigation

● —————
Energy

● —————
Expertise

● —————
Execution

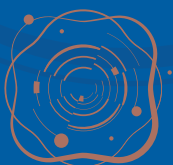
● —————
Unmatched
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Addressing case-sensitive matters with dedicated, end-to-end capabilities.

Every white-collar crime matter requires two separate perspectives to address it: the investigation, and legal advice on the investigation and its findings. AZB is the only large Indian law firm with these end-to-end capabilities, which pool the skills and expertise of our dedicated in-house forensic investigators and our corporate, employment and litigation practices, to deliver holistic advice on complex investigation and compliance matters. We assist our clients on a broad spectrum of compliance issues in diverse sectors, including financial services, healthcare and pharmaceuticals, media and entertainment, manufacturing, consumer goods, mining, construction and engineering and oil and gas.

Our Expertise & Experience

We advise clients on matters relating to, inter alia, bribery, corruption, financial misstatement, infringement of intellectual property rights and antitrust. Our work includes whistleblower and internal investigations, anti-counterfeit investigation support, incident response service, background checks and asset tracing, litigation / arbitration support and investigation into violations of domestic / international anti-bribery laws.



Compliance and Investigations into Bribery and Corruption

The Foreign Corrupt Practices Act, 1977 (“FCPA”) in the United States, the UK Bribery Act, 2010 (“UKBA”) and the PCA have stringent provisions to prevent bribery and corruption. AZB provides helps multinationals working in India comply with the provisions of these acts and avoid steep fines on account of unforeseen violations.

Our work includes:

- Pre-investment due diligence.
 - Assessing current compliance frameworks for weaknesses, developing compliance mechanisms, assist with drafting compliance policies and training staff.
 - Proactive compliance reviews and testing.
 - Conducting end-to-end compliance investigations and assistance with implementing remedial measures.
 - Conducting investigations based on specific allegations, including those made by third-party vendors / contractors claiming corrupt practices being employed for the benefit of the client.
 - Providing India-specific legal advice during compliance investigations on matters relating to privacy, data protection, attorney-client privilege and the PCA.
 - Advising on action plans arising from investigations, including, where necessary, on available legal remedies.
- **A Pipe Manufacturing Company** on a regulatory investigation of allegations regarding improper payments to government officials.
 - **A Life Science Manufacturing Company** in a forensic investigation with respect to bribery and corruption allegations.
 - **An Aviation Company** on formulating, implementing and periodic monitoring of an anti-bribery and anti-corruption (“ABAC”) compliance program, including policies, procedure, training and awareness.
 - **A Private Equity Firm** on anti-bribery and anti-corruption due diligence, background checks and forensic reviews of investee companies.
 - **An Asset Management Company (“AMC”)** on conducting a forensic investigation into the allegation of front-running raised by the market regulator and stock exchanges against the AMC.
 - **An FMCG Company** in conducting a bribery and corruption investigation, post its acquisition of an Indian beverage company.
 - **An Infrastructure Company** on its successful defense of allegations that it accepted bribes from a third-party contractor to secure contracts. Our investigation included conducting interviews, preparing a detailed report and advising on strategy.

Our experience includes work for:

- **A Defense Sector Company** for a regulatory investigation concerning allegations of bribery of government officials in various countries. We assisted the client with investigating its Indian operations and assessing its legal exposure under Indian anti-corruption laws and defense procurement guidelines.

- **A Japanese Company** on investigating bribery and corruption allegations received in relation to its wholly owned Indian subsidiary. Our team (i) conducted an in-depth review and interviews of various liaison and employees; and (ii) advised on its legal strategy and regulatory disclosures.
- **A Media Company** in investigating a whistleblower complaint alleging bribery of government officials by certain employees. We assisted with (i) preserving and analysing electronic data; (ii) reviewing records; (iii) interviewing employees; and (iv) remedial measures and disciplinary actions against the relevant employees.

Whistleblower and Internal Investigations

The Companies Act makes it incumbent on Companies to have an effective investigation mechanism for all reported cases involving employee misconduct or management fraud.

Our work includes:

- Conducting comprehensive investigations, covering preservation of evidence, forensic review of transactions, legal reviews of electronically stored information and interviews, providing legal and factual reports for management action and assisting management in developing action plans.
- Advising clients on matters of Indian law, including the manner in which whistleblower complaints are to be dealt with, disclosures to auditors, reporting to the audit committee and all advisory aspects pertaining to the PCA and the PMLA.
- Assisting clients on formulation and implementation of remedial measures.
- Assisting clients with litigation strategies and guidance in relation to interaction with regulatory agencies.
- **A Global Accounting Firm** on anonymous whistleblower complaints regarding the audit of specific business processes and the potential collusion between management and employees.
- **A Global Indices Provider** on conducting a fact-finding exercise in response to a whistleblower complaint alleging front running, leakage of unpublished confidential information and violation of other internal codes of conduct.
- **A Global Background Screening Company** on (i) conducting an internal investigation into the fraudulent misuse of payment cards by certain employees based in India; (ii) creating a legal strategy for civil and criminal action against employees, including filing a compliant with cyber police.
- **An Insurance Company** on investigating statements in whistleblower letters regarding allegations of improper payments and wrongdoings by senior management.

Our experience includes work for:

- **A Software Company** on conducting a fact-finding exercise in response to a whistleblower complaint alleging potential kickbacks between key employees and business partners.
- **A Data Research and Analytical Firm** in relation to whistleblower allegations of improper payments by employees to vendors.

- **A Global Rating Agency** on investigating a series of anonymous complaints alleging manipulation of ratings. Our team (i) conducted a forensic examination of documents and the rating process; (ii) interviewed alleged employees and third parties to assess the veracity of the complaints; and (iii) advised on its legal strategy and regulatory disclosures.
- **An Indian Company** on investigating allegations of personal enrichment by certain employees in procurement, vendor selection and contract allocation. We helped with gathering evidence and advised the client on legal action against the employees / vendors involved.
- **A Healthcare and Medical Devices Company** with respect to a whistleblower complaint alleging that certain sales agents / distributors were charging customers higher rates for its products. Our team (i) supervised an investigation into the allegations; (ii) reviewed transactional data; (iii) interviewed sales agents; and (iv) advised on structuring relationships with the sales agents / distributors.
- **A Japanese Pharmaceutical Company** on providing assistance with strategic advice and monitoring an investigation undertaken by an external investigator, disclosure to the external auditors and formulating the legal strategy for civil and criminal actions against employees.

Anti-Counterfeiting IPR Infringement Investigation Support

Counterfeiting and other forms of egregious infringement of IPRs have become a matter of grave concern for a majority of businesses, both in the offline and online space, as they lead to significant losses in revenue, brand tarnishment and dilution. We assist our clients in safeguarding the interests of domestic / international IPR owners.

Our work includes:

- Investigation support to identify and track sources of counterfeit or pirated goods, including identifying the individual(s) / entities infringing IPRs.
- Conducting investigations to determine the supply chain model of infringers and business entities who are a part of the identified supply chain.
- Conducting investigations on digital platforms and social media profiling to detect the existence of pirated products.
- Assisting in conducting mystery shopping of counterfeit goods and monitoring potential infringers.
- Assisting with the financial analysis of an infringing businesses.

- Assisting in conducting enforcement actions including court-appointed search and seizure commissions.
- Providing overall litigation support and providing actionable intelligence.

Our experience includes work for:

- **A US-Based Footwear Manufacturing Company** on conducting investigations into large-scale counterfeiting activities of its products in India. We assisted with (i) tracking down the supply chain of the counterfeiters; (ii) mystery shopping of counterfeit goods; (iii) mapping digital platforms and online portals; and (iv) filing court cases and conducting raids for the seizure of counterfeit goods, with the support of our Dispute Resolution team.

- **A Switzerland-Based Luxury Goods Company** with respect to an anti-counterfeiting investigation and subsequent legal proceedings in relation to one of its luxury brands in India.
- **Various Companies** on conducting investigations relating to the theft and infringement of IPRs, including (i) audits of public and market sources; (ii) collecting, preserving and presenting evidence; and (iii) initiating legal proceedings to protect and enforce IPRs.

Litigation and Arbitration Support

Litigation and arbitration in India has witnessed two significant changes in the recent years. First, Indian courts and tribunals have adopted technology; and second, international arbitration institutes now have a presence in India.

Our work includes:

- Preserving electronic evidence such as Enterprise Resource Planning transactions, communications, email data, server data, operational records and other information deemed useful for dispute resolution.
- Reviewing / analysing all data / information bearing evidentiary value for the case.
- Distilling the contribution of independent experts in law, accounting and valuation.

Our experience includes work for:

- **India's Largest Oil and Gas Company** on its computation of a claim relating to an ongoing dispute with the Government of India, involving an independent verification of costs incurred by the joint venture partners towards developing oil and gas fields and preparing a fact-finding report.

- **A Multinational Investment Bank and Financial Services Company** on (i) the preservation and review of its electronic data; and (ii) preparation of its defense in response to the notices received from Indian enforcement authorities.
- **A US-Based Engineering Conglomerate** on its defense against multiple allegations raised by its joint venture partner in India. We assisted with the (i) preservation and review of electronic data; and (ii) preparation of its defense.



Background Checks and Asset Tracing

Information systems in India are not as developed or sophisticated in comparison to those in more developed economies. As a result, information on individuals and/or corporates is not easily accessible. Multiple standalone sources need to be queried and analysed to retract legally admissible information.

Our work includes:

- Assisting clients in performing / managing background checks on target individuals and companies through public domain sources.
- Assisting clients in performing asset tracing, be it for a financial stress matter or to implement an arbitration or judicial award.
- Performing a legal review of the work done by external agencies.

Our experience includes work for:

- **Various Investors** on conducting background and reputation checks on the target investee companies and the key promoters and directors. We assisted with (i) verifying whether the target entities had any political connections; (ii) pending legal issues; (iii) negative media; and (iv) other controversies which were not disclosed.
- **Various Companies** with respect to tracing of assets of the investee companies and promoters. Our work included (i) ascertaining other shareholdings of the promoters; (ii) dealing with immovable assets owned by such promoters; and (iii) searches of land records to confirm the existing ownership of such immovable assets.

Dedicated Private Equity Support

Private equity firms, an emerging source of capital for Indian businesses, face significant risks in doing business in India.

We assist Private Equity firms by:

- Conducting pre-investment forensic due diligence / FCPA-UKBA diligence.
- Implementing ethics frameworks for investee companies.
- Conducting proactive reviews of compliance with the FCPA and UKBA.
- Conducting fraud risk assessment.
- Providing full Investigation support on allegations of asset misappropriation, misreporting and misstatement, diversion of funds and IPR theft.
- Conducting background checks and asset tracing of promoters, key management personnel, and related parties.
- Providing forensic and legal assistance in arbitration / litigation matters.

Our experience includes work for:

- **A Global Private Equity Firm** on conducting anti-bribery and anti-corruption diligence. We assisted with (i) conducting public domain searches; (ii) interviewing key managerial personnel; (iii) reviewing the ABAC framework; and (iv) focused transaction testing on the areas involving government exposure.
- **A US Based Private Equity Firm** on conducting Level 1 and Level 2 background checks on the target entities and its key management personnel.

Antitrust Investigation

The Competition Commission of India is a strict and aggressive regulator, known to impose hefty penalties for violation of the country's competition laws. AZB's competition / antitrust team analyses data, assesses potential risks and identifies solutions for our clients.

Our work includes:

- Reviewing agreements, business practices and internal communications to identify documents that may be flagged by regulators.
- Assisting companies facing dominance or cartel investigations in examining internal records and other data, ascertaining their exposure and preserving relevant information in an efficient manner.

Our experience in this area includes working:

- Closely with our Competition / Antitrust team to either assist a client in proactively conducting health checks from an Antitrust violation perspective, or to prepare its defense and response to notices from the Competition Commission of India, India's antitrust regulator. We also assist with preserving and analysing electronic evidence and physical documents.

Advisory Solutions

As corporate governance gains traction in India, firms are required to keep abreast of the laws to help foster ethical and compliant organisations.

Our work includes:

- Implementing comprehensive ethics frameworks, including aspects such as Codes of Conduct, Whistleblower Policies & Mechanisms, Anti-Fraud Policies, Incident Response Plans and Gifts Policies.
- Conducting ethics training and awareness sessions for employees, independent directors and third parties.
- Reviewing / improving existing ethics frameworks to adopt best practices.

- Assisting clients with compliance and investigations.
- Training members of the Internal Complaints Committee on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- **A Telecom Infrastructure Company** on its investigation into allegations of harassment in an anonymous complaint received by its Ethics Committee. Our work included (i) interviewing whistleblowers; and (ii) advising on strengthening internal processes.

Our experience includes work for:

- **A Media Conglomerate** on investigating and handling anonymous sexual harassment complaints received by the company on a social media platform and strengthening its internal processes.

Incident Response Services

To prevent fraud, corruption and bribery, firms must implement a sensitive incident response mechanism, with proper legal guidance.

Our work includes:

- Guiding the preservation of information in various forms.
- Advice on privacy rights, privileges and matters emerging out of government or regulatory actions from the Central Bureau of Investigation, SFIO and Economic Offences Wing.
- Advising companies, directors and employees on proceedings that may be initiated in India, post an FCPA / UKBA investigation.
- **A Pharmaceuticals Company** on an anonymous whistleblower email alleging that, as a general practice, a kickback was being paid to healthcare professionals in relation to the sale of the client's products. To determine the accuracy of such claims, we conducted a fact-finding exercise through audits of the client's distribution channels, review of electronically saved data of probable personnel involved and interviews of selected people involved in the sales process.

Our experience includes work for:

- **An Indian Subsidiary of a Pharmaceuticals Company** on its investigation in response to a notice from Indian regulators alleging contraventions of the Indian Drugs and Cosmetics Act, 1945. Our team performed a review, which helped the client address the allegations raised by the regulators. We also assisted in the preservation of evidence relevant to the investigation, which was ultimately used in contesting the regulatory proceedings.
- **A Financial Services Firm** on its investigation of a senior employee alleged to have facilitated front-running of the client's trades by third parties. Our team analysed trading data, email data and communication logs to evaluate the allegations and advised the client on its rights and obligations under law.

Our Specialists

Our white-collar crime professionals help clients respond rapidly to instances of alleged fraud, bribery, corruption and other misconduct, addressing legal issues and risks that may arise, including advice on disclosures and responding to regulatory authorities.

Our forensic investigation team deploys sophisticated forensic tools to help clients gather evidence to assess the extent of the issue. With additional inputs from our lawyers across practice areas, we are uniquely placed to address matters within the applicable legal frameworks.



MUMBAI



Zia J. Mody
Co-Founder & Managing Partner

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Recognized as an ‘Eminent Practitioner’ for Corporate / M&A by Chambers Global (2023 – 2025)

Recognized as an ‘Eminent Practitioner’ (2023 – 2025) for Corporate / M&A and an ‘Eminent Practitioner’ for Private Equity (2018 – 2025) by Chambers Asia-Pacific

Eminent Practitioner for Private Wealth Law in the Chambers High Net Worth Guide (2022 – 2024)

Recognized as a ‘Market Leader’ for M&A (2017 – 2024) and Private Equity (2024) by IFLR1000

Named to the ‘IFLR1000 Women Leaders’ list, in recognition of Zia’s contribution to the field of M&A (2020 – 2024) and Private Equity (2024)

Inducted into the ‘Hall of Fame’ for Corporate and M&A by Legal 500 Asia Pacific (2020 – 2025)

Recognized as ‘Leading Individual’ for Private Equity & Investment Funds (2021 – 2024) and Recommended Lawyer for Private Client Practice (2022 – 2024) and White-Collar Crime (2021 – 2023 & 2025) by Legal 500 Asia Pacific

Named to the ‘A List of Top 100 Lawyers & 50 Legal Icons’ published by the India Business Law Journal (2014 – 2025)

Recognized as an ‘Elite Practitioner’ for Corporate / M&A and Private Equity by Asialaw Profiles (2020 – 2024)

Awarded ‘Asian Law Firm Leader of the Year’ at the Asia Legal Awards (2024)

Featured in ‘Hall of Fame: 100 Most Influential Women in Law’ by BW Legal World (2024)

Featured in ‘Super 30 - Most Influential Law Firm Professionals’ by LawWiser (2024)

Recognized as a ‘Thought Leaders – India’ for Commercial Litigation, Corporate Governance, M&A and Project Finance (2023 – 2024), ‘Global Elite Thought Leader’ for Corporate Governance (2024) by the International Who’s Who Legal

Recommended for any complex legal matter (2019) and for M&A, Securities Law, Private Equity and Project Finance (2017) by the RSG India Report



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‘Recommended’ for White-Collar Crime (2023 & 2025) by Legal 500 Asia Pacific

Recognized as a ‘Litigation Star of the Year’ by Benchmark Litigation Asia Pacific (2023 – 2024)



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Ranked as a ‘Band 1’ for Arbitration (2021 – 2025) and Dispute Resolution (2022 – 2025) by Chambers Global

Ranked as a ‘Band 1’ for Dispute Resolution (Litigation & Arbitration) by Chambers Asia-Pacific (2022 – 2025)

Recognized as a ‘Litigation Star of the Year’ by Benchmark Litigation Asia Pacific (2020 – 2025)

Recognized as ‘Leading Lawyer’ for Dispute Resolution (Litigation) (2023 – 2025), Dispute Resolution (Arbitration) (2023 – 2024) and White Collar Crime (2024 – 2025) by Legal 500 Asia Pacific

Featured in IBLJ’s ‘A-List of India’s Top 100 Lawyers’ (2019 – 2024)

Recognized as an ‘Elite Practitioner’ for Dispute Resolution (2020 – 2024) by Asialaw Profiles



Ajay Upadhyay
Practice Head

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Recommended for White-Collar Crime by Legal
500 Asia Pacific (2024 – 2025)



Soumit G. Nikhra
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Ranked for White-Collar Crime & Corporate
Investigations by Chambers Asia-Pacific (2022 –
2025)

Leading Individual for White-Collar Crime by Legal
500 Asia Pacific (2022 – 2025)



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Recommended Lawyer for White-Collar Crime by
Legal 500 Asia Pacific (2021 – 2022 & 2025)



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DELHI



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Recognized as an ‘Eminent Practitioner’ (2019 – 2025) for Corporate / M&A by Chambers Global

Recognized as an ‘Eminent Practitioner’ (2016 – 2025) for Corporate / M&A; an ‘Eminent Practitioner’ (2019 – 2025) for Private Equity; ‘Eminent Practitioner’ (2022 – 2025) for Tax by Chambers Asia-Pacific

Recognized as ‘Highly Regarded’ for M&A and Private Equity by IFLR1000 (2018 – 2024)

Inducted into the ‘Hall of Fame’ for Corporate/ M&A and Tax by Legal 500 Asia Pacific (2021 – 2025)

Named ‘Recommended Lawyer’ for Private Equity & Investment Funds and Private Client Practice by Legal 500 Asia Pacific (2021 – 2025)

Featured in IBLJ’s ‘A-List of India’s Top 100 Lawyers’ (2015 – 2024)

Recognized as an ‘Elite Practitioner’ for Corporate / M&A, Private Equity and Tax (2020 – 2024) by Asialaw Profiles

Recognized as ‘EG Tax Leading Advisor’ by ITR World Tax (2023)

Recommended for Litigation (2017), Tax (2017 & 2019), Transactional (2017) and Regulatory Advice (2019) in the RSG India Report



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Ranked for Dispute Resolution by Chambers & Partners Global (2020 – 2025)

‘Band 1’ for Dispute Resolution and Ranked for White-Collar Crime by Chambers & Partners Asia-Pacific (2024 – 2025)

Recognised as ‘Litigation Star of the Year’ by Benchmark Litigation Asia Pacific (2020 – 2025)

Recognised as ‘India Lawyer of the Year’ by Benchmark Litigation Asia Pacific (2023)

Named a ‘Leading Lawyer’ for Dispute Resolution (Litigation) (2021 – 2025), Dispute Resolution: Arbitration (2020 – 2025) and White-Collar Crime (2023 – 2025) by Legal 500 Asia Pacific

Recognised as an ‘Elite Practitioner’ (2024) and ‘Distinguished Practitioner’ (2020 – 2023) for Dispute Resolution by Asialaw Profiles



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Named in 'India Top Female Lawyers 2023' by
Asian Legal Business (2023)



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Recommended for Labour & Employment by Legal
500 Asia Pacific (2020 – 2025)

BANGALORE



Anind Thomas
Partner

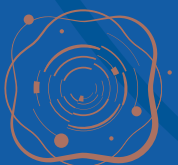
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Recommended lawyer for Data Protection by Legal
500 Asia Pacific (2022 – 2023)

Anti-Corruption Laws in India

In the last decade, the Indian economy has seen a rise in cases of complex fraud, bribery and corruption cases in the form of public bribery, financial misstatement, fund misappropriation and organised cartels, all culminating in lengthy litigation. Enforcement agencies have also been proactive in terms of monitoring compliance under relevant anti-corruption and bribery laws and taking action against violations.

Though India is still low on the Corruption Perceptions Index published by Transparency International (Ranked 78 in 2018), India's commitment to anti-corruption efforts have clearly grown and resulted in an increase in enforcement actions by Indian authorities. India has revamped its existing anti-corruption laws and has also introduced new laws to curb the menace of bribery and corruption.




Prevention of Corruption Act, 1988

The principal anti-corruption statute in India is the Prevention of Corruption Act, 1988 (“**PCA**”), as amended in 2018, which criminalises the receipt of any “undue advantage” by “public servants”. The PCA states that an “undue advantage” is any gratification other than the legal remuneration, which a public servant is permitted to receive, either from the government or any other organisation served by such public servant. The term “public servant” has a wide definition under the PCA, including any person in the service or pay of any government, local authority, statutory corporation, government company, or other body owned or controlled or aided by the government, as well as judges, arbitrators, etc.

Amendments to the PCA in 2018 have expressly targeted bribe-givers by criminalising the act of providing / promising to provide a bribe to any person (irrespective of whether such person is a public servant) to induce or reward a public servant to improperly / dishonestly perform a public duty. The amendments to the PCA expressly state that a commercial organisation will be fined if any person “associated with the commercial organisation” provides illegal gratification intended at obtaining or retaining business or gaining an advantage in the conduct of business of such commercial organisation.

The PCA also targets the conduct of “middlemen” or intermediaries who facilitate bribery, by criminalising the act of taking an undue advantage to cause the improper / dishonest performance of public duty.



The Companies Act, 2013

The Companies Act, 2013 (“**Companies Act**”) governs Indian companies and places a strong emphasis on corporate governance and prevention of corporate fraud. Under the Companies Act, auditors are mandatorily required to report any suspected frauds (above a specified threshold) to the central government. Certain types of companies are also required to establish a vigilance mechanism to report concerns.

The term “fraud” is broadly defined in the Companies Act, possibly encompassing acts of private or commercial bribery. Fraud is a criminal offence under the Companies Act and is punishable with imprisonment, ranging from 6 months to 10 years and/or a fine. The Companies Act also obligates directors and senior management to maintain systems to ensure compliance with applicable law, as well as accuracy of the books, records and financial statements of the company. Contravention of these provisions is punishable by imprisonment and fines, the amount of which depends upon the quantum of the amount involved in the fraud.

The Companies Act has also led to the establishment of the Serious Fraud Investigation Office (“**SFIO**”), empowered to detect, investigate and prosecute white-collar crimes and fraud. The SFIO has broad powers to, inter alia, conduct inspections, discover documents, search and seize evidence. Certain additional sections of the Companies Act have also been notified, giving the SFIO additional powers to arrest a person who, the SFIO has reason to believe, has been guilty of specified offences under the Companies Act (including those relating to “fraud”). Recently, the Companies (Auditor’s Report) Order, 2020, widened the scope of reporting by the auditors pertaining to fraud, which includes reporting of (i) all frauds by the company and on the company (whether or not it is done by its employees or officers); (ii) any reporting made by the auditor to the central government under section 143(12) of the Companies Act; and (iii) consideration by the auditor of whistleblower complaints received by the company.



Prevention of Money Laundering Act, 2002

In 2013, the Prevention of Money Laundering Act, 2002 (“**PMLA**”) criminalised “money laundering,” defined as direct / indirect attempts to knowingly assist or become party to, or actual involvement in, a process / activity connected with the “proceeds of crime” (including its concealment, possession, acquisition or use) and in projecting or claiming such property to be untainted property. Under the PMLA, “proceeds of crime” is defined as any property derived or obtained by a person, directly / indirectly, as a result of certain identified crimes, which are considered as predicate offences for the application of the PMLA. A crucial aspect of this law is that it permits the attachment of properties of accused persons, as well as that of other parties connected with the proceeds of crime, at a preliminary stage of the investigation, including prior to conviction. Money laundering is punishable by imprisonment ranging from 3 to 7 years and a fine.

Amendments to the PMLA in 2018 have included “fraud” under the Companies Act as one of the identified crimes falling under the gamut of the PMLA. As a result, any property derived / obtained pursuant to fraud falls within the ‘proceeds of crime’ under the PMLA. Unlike the PCA, “fraud” under the Companies Act is not linked only to bribery of public servants but covers a much wider ambit.

The PMLA also requires banks, financial institutions and intermediaries (such as brokers and money changers) to maintain records of transactions and clients’ Know-Your-Customer details (as per norms specified by sectoral regulators), report suspicious transactions and transactions exceeding a specified value.

Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015

The Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015 (“**Black Money Act**”) enactment levies penal rates of tax on any undisclosed asset or income held abroad by a person resident in India and penalises individuals for non-disclosure of foreign income or assets, willful attempt to evade tax and failure

to furnish requisite returns. The objective of the Black Money Act is to target undisclosed incomes and assets, potentially derived through illegal means, including corruption, which have been stashed offshore by Indian residents.

The Fugitive Economic Offenders Act, 2018

In order to prevent offenders accused of economic offences from evading prosecution within the country, the Fugitive Economic Offenders Act, 2018 (“**FEOA**”) was enacted in 2018. The FEOA targets fugitive economic offenders with arrest warrants issued against them for certain predicate economic offences involving 100 crores, who have either left the country to avoid criminal prosecution or are abroad and refuse to return to face criminal

prosecution. Predicate offences under the FEOA cover cheating and counterfeiting under the Indian Penal Code, 1860, offences under the PCA, PMLA, corporate fraud under the Companies Act, benami transactions and tax evasion. The strength of the FEOA lies in its far-reaching measures of immediate confiscation of all properties of any absconder, which acts as a strong deterrent against fleeing the country.

Central Vigilance Commission Act, 2003

Pursuant to the Central Vigilance Commission Act, 2003, the central government has constituted the Central Vigilance Commission (“**CVC**”). The CVC is the government watchdog, tasked with inquiring into (or commissioning an inquiry into) alleged offences committed under the PCA. It is also responsible

for advising, planning, executing, reviewing and reforming vigilance operations in central government organisations. The CVC is required to operate impartially and free of executive control and can refer investigations to the CBI.



Right to Information Act, 2005

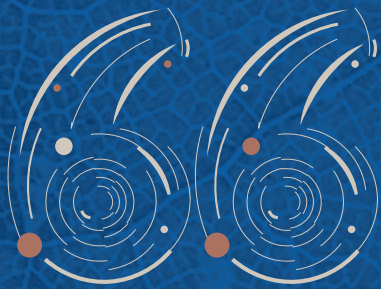
The Right to Information Act, 2005 (“**RTI Act**”) allows Indian citizens to obtain information held by any public authority, subject to specified exceptions for national interest, legislative privilege and right to privacy. Further, the RTI Act requires public authorities to publicly disclose certain types of information relating to their functions. For example, they must publish relevant facts while formulating important policies or announcing decisions that affect the public and provide reasons for their decisions. Information requested by a citizen must be provided in a timely manner (i.e., within a period of 48 hours, if the life and liberty of any person are involved, to 30 days). An authority has been set up at the central and state levels to monitor complaints from citizens under the RTI Act (including a refusal of access or a failure to respond).

In recent years, the RTI Act has proved to be a key tool in the fight against corruption – requests for information by activists and citizens have been successful in bringing to light instances of corruption in government tenders and public procurement programs. The RTI Act promotes transparency in the government and bureaucracy’s decision-making, facilitating publication of official records, which ensures that any lapses are brought into the public eye.

Apart from the anti-corruption legislations mentioned above, penal actions for any corrupt activities in India may also be initiated under the following legislations:

- The Indian Penal Code, 1860
- The Benami Transactions (Prohibition) Act, 1988
- The Foreign Contribution Regulation Act, 2010
- The Lokpal and Lokayuktas Act, 2013 (the provisions are yet to be enforced)
- The Whistle Blowers Protection Act, 2014 (the provisions are yet to be enforced)





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